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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,932	10/25/2001	Brook P. Adolfson	17456.8.2	1408

7590 07/11/2003

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EXAMINER

MCDERMOTT, KEVIN

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary	Application No.	Applicant(s)	
	10/034,932	ADOLFSON ET AL.	
	Examiner	Art Unit	
	McDermott, Kevin	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33,35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-15,17-20,22-27,29-31,33,35 and 36 is/are rejected.
- 7) ☒ Claim(s) 7,16,21,28 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of claims 1-33, 35, and 36 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that there is not a serious burden on the examiner. This is not found persuasive because the invention of claim 34 has separate utility as explained in the restriction requirement.

The requirement is still deemed proper and is therefore made FINAL.

Double Patenting

Claim 36 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 35. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 9, 19 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Voegelé.

Regarding claims 1 and 26, Voegelé discloses in figure 2, in column 2, lines 39-50, and in column 3, lines 1-5, a plurality of glazing elements 10 supported by a framing

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system according to the present invention. The glazing elements may be made of appropriate materials as are known by those skilled in the art. The framing system comprises a plurality of rectangular frames. Each frame member 12 includes a rabbet for receiving the glazing element 10. The rabbet includes a pair of parallel, spaced sides 14, 16 and a base 18 connecting the spaced sides 14 and 16.

Column 3, lines 37-43 disclose screw fasteners 46 extending through the flanges 28 into the substrate for attaching the framing system thereto. Where the substrate is an existing glazing system 48 the fasteners 46 can thread into a screw channel 50 formed for attaching the existing glazing system 48. The fasteners 46 must be offset from the fasteners 52 of the existing glazing system 48.

The element identified with the number 50 in figure 2 is the claimed bracket. The frame members 12 are the claimed rigid elongated frame members adapted to be fixedly retained by the brackets in a desired spatial relationship with the outer face of the structure. The spaced sides 14, 16 in combination with the base 18 define substantially parallel channels extending along the sides of the frame members 12. The element identified using the number 48 in figure 2 is the claimed reinforcement member.

Because Voegelé discloses the claimed structural limitations recited in claim 1 it can inherently perform the same functions.

Regarding claim 2, the elements 48 retain the respective frame members 12 to the elements 50. Because Voegelé discloses the claimed structural limitations recited in claim 2 it can inherently perform the same functions.

Regarding claim 3, the elements 48 comprise a rigid elongated body. Because Voegelé discloses the claimed structural limitations recited in claim 3 it can inherently perform the same functions.

Regarding claim 4, the element 48 has a C-shaped cross section.

Regarding claim 5, the spaced sides 14, 16 are the claimed pair of elongated bodies and define first and second channels. Because Voegelé discloses the claimed structural limitations recited in claim 5 it can inherently perform the same functions.

Regarding claims 8, 22, and 29, spaced sides 14 and 16 are the claimed rigid plates.

Regarding claims 9 and 23, the sides 14 and 16 each have bends that form part of the base 18.

Regarding claim 19, the sides 14, 16 are the claimed elongated bodies and the opening defined between the bends 22 defines a slot that communicates with the elongated channel defined by the sides 14, 16 and the base 18.

Regarding claims 24 and 31, each slot is defined between the side edges of the sides 14, 16.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 20, 25, 27, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voegele.

Voegele's disclosure is discussed above. However, Voegele does not disclose the distance between sides 14 and 16 being adjustable.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Voegele so that the distance between sides 14, 16 was adjustable, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

One of ordinary skill in the art would have made such a modification to provide a safer framework.

Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voegele in view of Jones.

Voegele's disclosure is discussed above. However, Voegele does not disclose the elements 10 having a major surface and substantially parallel first and second edge portions, each edge portion having a greater thickness than a peripheral panel area extending therefrom.

Jones discloses in figure 6 a track member having channels located on both sides and cover panels 122 disposed in these channels. The cover panels 122 have an edge containing a tube or rod 132, thus giving the panels 122 an edge portion having greater thickness than a peripheral area extending therefrom.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the elements 10 to have an edge portion having greater thickness than a peripheral area extending therefrom.

Regarding claim 11, the elements 48 retain the respective frame members 12 to the elements 50. Because Voegele discloses the claimed structural limitations recited in claim 11 it can inherently perform the same functions.

Regarding claim 12, the elements 48 comprise a rigid elongated body. Because Voegele discloses the claimed structural limitations recited in claim 12 it can inherently perform the same functions.

Regarding claim 13, the element 48 has a C-shaped cross section.

Regarding claim 14, the spaced sides 14, 16 are the claimed pair of elongated bodies and define first and second channels. Because Voegele discloses the claimed structural limitations recited in claim 14 it can inherently perform the same functions.

Regarding claim 15, Voegele's disclosure is discussed above. However, Voegele does not disclose the distance between sides 14 and 16 being adjustable.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Voegele so that the distance between sides 14, 16 was adjustable, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

One of ordinary skill in the art would have made such a modification to provide a safer framework.

Regarding claim 17, spaced sides 14 and 16 are the claimed rigid plates.

Regarding claim 18, the sides 14 and 16 have bends located at the ends of the sides at 22 that partly define the channels.

Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voegelé in view of Jones.

The disclosures of Voegelé and Jones are discussed above. Voegelé also discloses the brackets 50 rigidly and removably attached to the structure. The element 48 being secured to the frame members 12 and the frame members 12 being rigidly secured to the brackets 50 using fasteners 52. The elements 10 are positioned between a pair of reinforced frame members 12 by slidably retaining the element 10 edges in the channels formed by the sides 14, 16 and base 18.

Allowable Subject Matter

Claims 7, 16, 21, 28, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Regarding claims 7, 16, 21, and 28, the prior art does not disclose, and it does not appear obvious to modify the prior art to disclose, a frame element having the limitations of claims 1, 10, 19, and 26, respectively, wherein the elongated bodies or frame members are adapted to be mated by one or more fasteners, and the channel width can be adjusted using at least one of the fasteners.

Regarding claim 32, the prior art does not disclose, and it does not appear obvious to modify the prior art to disclose, a frame element having the limitations of claim 26, wherein the side edges have a divergent configuration.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kevin McDermott, whose telephone number is 703-308-8266.



Carl D. Friedman
Supervisory Patent Examiner
Group 3600

KM 6/30/03